

Department of Justice

§ 68.1

grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[Order No. 1416-90, 55 FR 21690, 21696, May 25, 1990]

PART 68—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS, UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES, AND DOCUMENT FRAUD

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AUTHORITY: 5 U.S.C. 301, 554; 8 U.S.C. 1103, 1324a, 1324b, and 1324c.

§ 68.1 Scope of rules.

The rules of practice in this part are applicable to adjudicatory proceedings before Administrative Law Judges of the Executive Office for Immigration Review, United States Department of Justice, with regard to unlawful employment cases under section 274A of the INA, unfair immigration-related employment practice cases under section 274B of the INA, and document fraud cases under section 274C of the INA. Such proceedings shall be conducted expeditiously, and the parties shall make every effort at each stage of a proceeding to avoid delay. To the extent that these rules may be inconsistent with a rule of special application as provided by statute, executive order, or regulation, the latter is controlling. The Federal Rules of Civil Procedure may be used as a general guideline in any situation not provided

for or controlled by these rules, by the Administrative Procedure Act, or by any other applicable statute, executive order, or regulation.

[Order No. 2203–99, 64 FR 7073, Feb. 12, 1999]

§ 68.2 Definitions.

For purposes of this part:

Adjudicatory proceeding means an administrative judicial-type proceeding, before the Office of the Chief Administrative Hearing Officer, commencing with the filing of a complaint and leading to the formulation of a final agency order;

Administrative Law Judge means an Administrative Law Judge appointed pursuant to the provisions of 5 U.S.C. 3105;

Administrative Procedure Act means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C. 551 through 559;

Certification means a formal assertion in writing of the specified fact(s), signed by the person(s) making the certification and thereby attesting to the truth of the content of the writing, except as follows:

(1) *Certified court reporter* means a person who has been deemed by an appropriate body to be qualified to transcribe or record testimony during formal legal proceedings,

(2) *Certified mail* means a form of mail similar to registered mail by which sender may require return receipt from addressee, and

(3) *Certified copy* means a copy of a document or record, signed by the officer to whose custody the original is entrusted, thereby attesting that the copy is a true copy;

Certify means the act of executing a certification;

Chief Administrative Hearing Officer or an official who has been designated to act as the Chief Administrative Hearing Officer, is the official who, under the Director, Executive Office for Immigration Review, generally administers the Administrative Law Judge program, exercises administrative supervision over Administrative Law Judges and others assigned to the Office of the Chief Administrative Hearing Officer, and who, in accordance with sections 274A(e)(7) and 274C(d)(4) of the INA, exercises discretionary au-

thority to review the decisions and orders of Administrative Law Judges adjudicated under sections 274A and 274C of the INA;

Complainant means the Immigration and Naturalization Service in cases arising under sections 274A and 274C of the INA. In cases arising under section 274B of the INA, “complainant” means the Special Counsel (as defined in this section), and also includes the person or entity who has filed a charge with the Special Counsel, or, in private actions, an individual or private organization;

Complaint means the formal document initiating an adjudicatory proceeding;

Consent order means any written document containing a specified remedy or other relief agreed to by all parties and entered as an order by the Administrative Law Judge;

Debt Collection Improvement Act means the Debt Collection Improvement Act of 1996, Pub. L. 104–134, Title III, 110 Stat. 1321 (1996);

Decision means any findings of fact or conclusions of law by an Administrative Law Judge or the Chief Administrative Hearing Officer;

Document fraud cases means cases involving allegations under section 274C of the INA.

Entry means the date the Administrative Law Judge, Chief Administrative Hearing Officer, or the Attorney General signs the order; *Entry* as used in section 274B(i)(1) of the INA means the date the Administrative Law Judge signs the order;

Final agency order is an Administrative Law Judge’s final order, in cases arising under sections 274A and 274C of the INA, that has not been modified, vacated, or remanded by the Chief Administrative Hearing Officer pursuant to § 68.54, referred to the Attorney General for review pursuant to § 68.55(a), or accepted by the Attorney General for review pursuant to § 68.55(b)(3). Alternatively, if the Chief Administrative Hearing Officer modifies or vacates the final order pursuant to § 68.54, the modification or vacation becomes the final agency order if it has not been referred to the Attorney General for review pursuant to § 68.55(a) or accepted by the Attorney General for review